

AzDEQ SFY20 EOY
Water Program Assessment
Highlights and Concerns
October 2020

Administration of Water Programs

Highlights

- AzDEQ WQD would like to continue to work with EPA to improve the Workplan structure and formatting to make it a better tool to manage federal funding, programs, and deliverables.

Concerns

- While ongoing discussions between EPA and AzDEQ WQD have improved the understanding and expectation of the work to be accomplished in the Workplan, both parties think the current workplan negotiation process is labor-intensive and a more streamlined process must be developed and implemented.

Surface Water

Water Quality Standards

Highlights

- AzDEQ submitted a large, complex WQS package to EPA for review, reflecting years of effort by AzDEQ staff.
- The N-STEPS project for rivers and streams nutrient criteria is progressing well towards a draft standard, these criteria should be ready for the 2022 WQS updates. Updated Arizona specific nutrient criteria will be an important component to supporting aquatic life and recreational uses.

Concerns

- During End-of-year meetings EPA discussed with AzDEQ concerns that its initial review of the new and revised WQS is missing information. We agreed that EPA and AzDEQ would work together to address these issues.
- After making progress over the last year, EPA is concerned that AzDEQ's biocriteria work has been recently suspended. Expanded and updated biological criteria are important to supporting aquatic, fish consumption, and recreational uses via low-cost biological samples of macroinvertebrates and other biotas.
- EPA understands workplan tasks have ceased for a variety of reasons, including ongoing staff vacancies and turnover. The current EOY report lacks sufficient detail for EPA to discern what work was conducted in-lieu of stopped tasks. EPA is concerned about long term suspension of important substantive program work. AzDEQ should modify workplan tasks in the current PPG to reflect work steps that will be completed within the performance period. To be better responsive, workplan modifications may need to be discussed more frequently than once a year.

Water Quality Monitoring

Highlights

- For a full reporting year, AzDEQ has maintained an improved data flow to WQX. This data is essential to the AzDEQ 303(d) assessment program, the Integrated Report (IR), and other programs.

Concerns

- AzDEQ has stated that the primary focus of its annual monitoring plans is to “... Confirm Impairments or Delist.” This focus does not satisfy CWA 305(b) requirements to assess all waters.
- AzDEQ has reported it is experiencing ongoing vacancies in the program value stream and units that impact its ability to complete workplan tasks.

Integrated Report and TMDL

Highlights

- The Santa Cruz TMDL for e. coli was submitted and approved achieving one of AzDEQ’s Vision Commitments.
- AzDEQ continues to be one of several states leading efforts to automate portions of the Integrated Report process with the development of their tools using CRAN R.

Concerns

- CWA section 303(d) requires AzDEQ to develop TMDLs to address impaired water bodies on the 303(d) list. The continued delays in completion of the Pinto Creek TMDL, along with the suspension of work in the San Pedro River and Queen Creek, and the lack of planned new TMDL development in the workplan indicate that AzDEQ is not meeting this requirement. The KOUI approach may alleviate this concern, however, EPA needs to better understand how this approach meets “TMDL alternative” requirements.
- AzDEQ reports data collection and analysis work is being suspended and/or has not been completed during the period. EPA does not have AzDEQate reporting from AzDEQ to document what was done instead.

AzPDES Permitting

- AzDEQ significantly improved online access to permittees seeking coverage under both the Multi-Sector General Permit (MSGP) and the Construction General Permit (CGP), with a fully functional e-NOI program. AzDEQ also committed to making all its permits, both individual and general, available on its website before the end of the calendar year 2020 and made significant progress towards that goal in SFY20.
- The NWPR and the unsettled question of the jurisdictional status of receiving waters for AZPDES permits is an ongoing concern. The amount of staff time required to address the NWPR related issues via the development of screening-level tools, conducting outreach and training workshops/webinars for the regulated community, as well as potentially working on individual jurisdictional determination requests from dischargers is a major concern.
- Despite the planned termination of two GPs as noted above, AzDEQ will still be backlogged on re-issuing the Pesticide GP and Biosolids GP. Staffing issues due to the loss of a couple of key staff and a hiring moratorium, as well as the demand on staff time to issues related to the new NWPR make the issuance of these backlogged GPs a challenge and the backlog in SFY21 for both individual and GPs is likely to get worse.

Development of CWA § 404 Permitting Program

Highlights and Concerns – AzDEQ and EPA established an effective partnership in support of the State’s aim to gain approval for assuming the 404 program by December 2020. After AzDEQ’s decision not to proceed with the assumption process, a revised workplan was not provided to EPA. As such, EPA is unclear as to what activities were supported with leftover 404 assumption funds.

CWA § 401 Water Quality Certification Program

Highlights and Concerns – AzDEQ staff maintains an effective working relationship with EPA regarding 401 certification of federal permits and licenses. The existing reporting requirement in the PPG informs EPA that AzDEQ is implementing the 401 program, but it does not provide information on 401 compliance across the state. AzDEQ may be limited in its ability to collect this information as AzDEQ’s statutory authority limits its review to activities conducted only within the OHM. In the absence of state rules, they can’t require reporting or monitoring. EPA continues to recommend that AzDEQ develop rulemaking that expands the scope of their review under 401 and requires a robust monitoring program to ensure project compliance with water quality requirements.

CWA Enforcement and Compliance

- Highlights:
- Concerns:

Data Management and Reporting

Inspections: ADEQ has failed to meet the CMS goals for SSS inspections (5% of the permitted universe or six inspections for ADEQ) each year from SFY16 through SFY20. No inspections were conducted in SFY16 and SFY17, two were conducted in SFY18, four in SFY19, and one in SFY20. Despite the drop in SFY20 due to the pandemic, ADEQ will strive to meet its full CMS SSS inspection commitment of 6 in SFY21. ADEQ plans to continue its inspection work both virtually and in the field in SFY21.

Pretreatment Program: During SFY20, ADEQ developed resources to streamline pretreatment work, and is realigning pretreatment work within ADEQ’s value stream. ADEQ did not meet their SFY19-20 PCA, PCI, and SIU targets, falling short by one PCA, eight PCIs, and two SIU-oversight inspections. EPA will provide Virtual Pretreatment Training to ADEQ staff in November 2020. In SFY21, ADEQ will work to complete pretreatment compliance monitoring commitments for SFY21 and compliance monitoring commitments that were not met in SFY19 and SFY20.

Biosolids Program: EPA’s Region 9 Water Division provided general training on the Biosolids Rule on September 4 – 5, 2019. ADEQ now has a biosolids program subject matter expert. EPA recommends ADEQ collaborate with EPA’s Region 9 Enforcement and Compliance Division to provide additional training on conducting biosolids inspections and determining violations.

Data Management and Reporting: ADEQ currently complies with its State Implementation Plan for the Phase 2 NPDES eRule reporting. EPA would like updates from ADEQ, annually starting in January 2023 and then quarterly starting in January 2025. To meet the December 21, 2025 deadline, the updates should identify critical milestones and provide the status of the tool development for Phase 2 electronic reporting.

Groundwater and Drinking Water

Groundwater

- Close coordination on UIC Primacy development efforts and UIC/APP permit activities.
 - The UIC and APP permit staff shared information and coordinated on the approval of construction activities and authorization to commence injection requirements for the Excelsior Gunnison Copper Project. EPA also appreciates AzDEQ observing mechanical integrity testing required by the UIC permits at the Florence Copper and Morton Salt facilities.
- Concerns: None

Public Water Systems Supervision

Highlights and Concerns:

- + AzDEQ received formal approval of revised primacy for two older rules (Consumer Confidence Report, Public Notification) and two required statutory revisions (revised PWSS definition, Administrative Penalty Authority) and submitted primacy packages for an additional six rules for EPA review. This represented the first revised primacy action by EPA for AzDEQ since 1993.
- + AzDEQ has furthered its predictive modeling efforts, initiated in FY19, to identify systems that may be challenged with addressing arsenic in its water supply. Data collected is used to work with targeted systems to plan and address arsenic through treatment or other mitigation before the exceedance of the standard.
- + AzDEQ developed a pilot virtual sanitary survey SOP which will enable completion of required sanitary surveys for small systems and may provide for an efficient tool for possible use in the future when resources are limited.
- AzDEQ has not yet implemented its new procedures for migrating corrective actions from AZURITE to SDWIS/State for tracking and recording the correction of significant deficiencies identified during sanitary surveys.
- A timely and appropriate follow-up to Maricopa County Program/File Review findings that included lack of implementation of the Lead and Copper Rule, failure to enforce drinking water violations, and failure to compel correction of significant deficiency findings.

Drinking Water Act Enforcement and Compliance

- Highlights:
- Concerns:

Tribal and State Assistance

Nonpoint Source Program

- Throughout the two-year PPG, there were several late or incomplete or missing commitments:
 - Late:
 - 2019 NPS Annual Report –due 9/1/19, received 4/2/20
 - Updated 5-year NPS Management Plan – draft due 2/28/19, received 3/20/20
 - Incomplete or Missing:
 - National Water Quality Initiative reporting – due 6/30 each year
 - Water Quality Improvement Grant Cycle Development - Annually
 - Monitoring
 - Big Bug data summary – due 6/30/2019
 - Pinto Creek – due 6/30/2020
 - Davidson Canyon – ongoing but stopped in July 2019
 - TMDLs
 - Pinto Creek – due 9/30/18, 8/15/19
 - Queen Creek – due 9/30/18
 - Clean Water Plan
 - San Pedro River – due 10/1/19
 - Missed required travel to the National NPS Workshop - October 2018
- In light of the late and missed deliverables identified above, we would like to see a more detailed accounting of the expenditure of NPS funding over the past two years. It's unclear if the NPS funds were used to implement the State's NPS Management Plan, as the workplan does not provide enough detail to assess. The NPS Program provided \$4.3 million over 2 years to AzDEQ to implement its NPS Management Plan. Per CWA §319(h), the statute requires the state to implement its NPS Management Plan, regardless of whether the funds are in a PPG.
 - EPA expects AzDEQ to provide a more specific "level of effort" per task to match the level of funding from the NPS Program in upcoming workplans.
- Due to the overlapping change in 1st and 2nd level managers, EPA has noticed an adverse impact on institutional NPS program knowledge.
 - EPA recommends reviewing the National NPS Guidelines, attending related workshops (incl, Rio Reimagined), reaching out to neighboring state NPS counterparts, and discussing with EPA lead.
 - There is required attendance to this year's virtual National NPS Workshop in November, as well as to the in-person event next fall (2021).
 - EPA staff and managers continue to be available to assist new AzDEQ staff and managers with the transition.
- In the NPS database, Grants Reporting and Tracking System (GRTS), 155 projects are missing mandatory data fields
 - EPA requests that the State update these projects in GRTS by December 31, 2020, and continue to enter in load reduction data by February 28th of each year.
 - EPA suggests AzDEQ consider using GRTS to track and report on implementation project status and finances.
- EPA is very concerned that AzDEQ is abandoning its commitment to specific watersheds (i.e., Upper Santa Cruz River and San Pedro River) where there has been a concerted investment of federal, state, and local resources to conduct the necessary watershed analysis and planning to enable funding of implementation projects. We want to see our collective

historic investments in these watersheds come to fruition and lead to water quality improvements.

- Upper Santa Cruz River: EPA and AzDEQ have invested different sources of funds and resources to analyze pollutant issues in the Upper Santa Cruz River. In early 2020, a Clean Water Plan was finalized, including a TMDL analysis and clear identification of areas to target NPS pollution issues. That investment should be continued to help improve water quality in the watershed.
- San Pedro River: EPA is concerned that AzDEQ moving to deprioritize the San Pedro River from AzDEQ's workplan and the recently approved NPS Plan. The San Pedro River is identified as a priority watershed in AzDEQ's recently approved Updated NPS Management Plan with over \$2 million of past NPS funding directed at improving water quality in that watershed. USDA NRCS recently selected the San Pedro River as a priority watershed under the National Water Quality Initiative based on negotiations with the State. EPA requests that AzDEQ provide a specific request and justification for this change to facilitate our consideration of changes to the workplan and NPS Plan.
- Continue EPA and AzDEQ quarterly updates for NPS Projects to ensure AzDEQ's financial tracking and timely obligation of funds.
- AzDEQ funds some staff time with NPS Project grant funds for staff directly working on specific NPS implementation projects. While the Project Officer approved the use of project funds for staffing direct implementation, EPA would like to caution AzDEQ on using the Projects grant for staff time. Congress intended these funds to go to implement watershed-based plans.

Border

In SFY20, AzDEQ continued to provide technical and financial assistance (via a Watershed Improvement Grant to the North American Development Bank (NADB)) to mitigate transboundary wastewater flows from Naco, SN. To address pretreatment needs in Nogales, AzDEQ coordinated and participated in the first meeting of the U.S. Mexico-Border Utilities Group involving the City of Phoenix, OOMAPAS Nogales, Pima County, and AzDEQ.

AzDEQ has continued to advocate for additional funding for projects to address ongoing problems with the Nogales IOI. It will be important for AzDEQ to be aware of the process through which BWIP funding is made available through NADB and for AzDEQ to work with local project proponents/sponsors to apply for funding through that process.

CWA 604(b)

- EPA has participated in several local workshops in Arizona and found that there is a need for WQMP assistance outside of the Council of Governments and DMA's.
 - EPA encourages the continued practice of competing for these funds to help local needs and to reconsider passing through more than the required minimum of (40%) to planning agencies in the community.

Drinking Water and Clean Water State Revolving Fund (SRF) Programs

EPA completed the annual SRF performance evaluation review and shared the report with WIFA and AzDEQ in July 2020. While Drinking Water SRF management was satisfactory, the report raised concerns about funds utilization in the Clean Water SRF and asked WIFA to develop a plan to improve funds utilization in the future. Earlier this year we offered to coordinate with AzDEQ management concerning this CWSRF issue. In 2021, EPA plans to work with AzDEQ, WIFA, and the Region 9 Environmental Finance Center to organize an Arizona water funding forum designed to improve understanding of SRF and other water project funding sources and strategies, and hopefully increase interest among a wider array of project proponents in applying for SRF funding support.